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{ 104-334****ACCOUNTABLE PIPELINE SAFETY AND
PARTNERSHIP ACT OF 1996**

R E P O R T**OF THE****COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION****on****S. 1505****JULY 26, 1996.—Ordered to be printed**

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

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ACCOUNTABLE PIPELINE SAFETY AND PARTNERSHIP ACT
OF 1996

JULY 26, 1996.—Ordered to be printed

Mr. PRESSLER, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. 1505]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1505) “A Bill to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes”, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of this legislation is to reauthorize appropriations for the Natural Gas and Hazardous Liquid Pipeline Safety programs, and to reduce the risks and enhance environmental protection associated with pipeline transportation. S. 1505, as amended, is intended to enhance the delivery of hazardous liquid and natural gas materials in a safe and environmentally responsible manner and permit the Department of Transportation (DOT) to build a more effective partnership with States, the public and industry.

BACKGROUND AND NEEDS

The authorization of appropriations for pipeline safety programs expired September 30, 1995. By delegation of the Secretary of Transportation (Secretary) through the Research and Special Programs Administration (RSPA), the Office of Pipeline Safety (OPS) is charged with administering pipeline safety programs. Appropriations for pipeline safety programs were previously authorized under the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979. The two laws were combined under a single authority during the general recodification of Title 49, U.S. Code, in 1994.

PIPELINE TRANSPORTATION

OPS oversees the transportation of natural gas to 55 million residential and commercial customers. OPS also oversees the transportation of more than 605 billion ton miles of petroleum and other hazardous liquids pipelines. OPS jurisdiction covers more than 2,000 gas pipeline operators with more than 1.6 million miles of pipeline, and more than 200 operators and almost 200,000 miles of pipe transporting hazardous liquids. OPS also has responsibility for pipeline safety and environmental protection programs under the Oil Pollution Act of 1990.

Pipeline safety programs are entirely financed by user fees. Gas transmission operators and hazardous liquid pipeline operators pay a pro rata share of program costs based on total pipeline mileage. Operators of liquefied natural gas facilities are assessed based on total storage capacity. Oil Pollution Act funds are derived from the Oil Spill Liability Trust Fund.

National Transportation Safety Board statistics show pipelines to be one of the safest modes of transportation in the United States. Among all modes—highway, rail, aviation, marine, and pipeline—fatalities from pipeline accidents represent less than $\frac{3}{1000}$ of 1 percent of the total number of fatalities on an annual basis.

In recent years, support has grown for developing innovative and alternative approaches to pipeline safety. The goal is simple and direct: improve pipeline transportation and efficiently manage both public and private resources. Given the desire for improvement, OPS initiated administrative activities to ensure that most safety and environmental risks are addressed with the most cost-effective solutions. OPS recognized legislation ultimately would be necessary to codify and authorize its initiative.

The Administration's pipeline safety reauthorization submission last year sought new authority to work with industry and others to move away from traditional "command-and-control" regulations. The legislative proposal requested authority to establish a formal structure to evaluate pipeline risks and their consequences, to develop solutions to address the risks, and establish management priority systems to implement the solutions.

The Committee supports a shift in the pipeline safety program away from a prescriptive, one-size-fits-all regulatory approach. As reported, S. 1505 responds to this challenge and provides statutory authority to initiate the shift.

LEGISLATIVE HISTORY

Senator Lott, Chairman of the Subcommittee on Surface Transportation and Merchant Marine, introduced S. 1505, the Accountable Pipeline Safety and Partnership Act of 1995, on December 22, 1995. A bipartisan group of Senators (Senators Breaux, Hutchison, Exon, Burns, Ford, Inouye, Shelby, Cochran, Frist, Inhofe and Pressler) cosponsored S. 1505.

S. 1505, as introduced, was similar to H.R. 1323, the Pipeline Safety Act of 1995.

The Committee held a hearing on S. 1505 on April 16, 1996. At the hearing, the Committee heard concerns from affected parties, including federal and state regulators.

In open executive session on June 6, 1996, S. 1505 was amended by the Committee and ordered to be reported without objection.

SUMMARY OF MAJOR PROVISIONS

RISK ASSESSMENT REFORM

The bill builds upon the Administration's submission and broadens the application of risk-based solutions through the performance of risk assessments. Risk assessments identify the sources of risk, analyze the severity of potential risk consequences and quantify the likelihood of experiencing those consequences.

S. 1505, as reported, establishes a structured risk assessment, cost-benefit analysis process as a possible basis for future pipeline safety standards. The risk assessment process designed in the Committee bill may ensure that future pipeline safety standards recognize and incorporate more detailed, scientifically and economically grounded considerations. The Committee's bill complements OPS's existing risk assessment prioritization (RAP) model which seeks to identify the most rational, cost-effective alternatives, if any, to a given proposed safety requirement. S. 1505 moreover builds on the existing rulemaking procedures already followed by the Administration generally and by OPS specifically.

Under the bill, the Secretary must issue safety standards based on a reasoned determination that the benefits of the intended standard justify its costs. As noted above, OPS already has a RAP program in place.

The bill requires a risk assessment to be performed when prescribing new pipeline standards. The assessment would identify or estimate the benefits expected to result from a proposed standard, as well as identify or estimate the expected costs to result from the proposed standard. The Committee fully recognizes that all benefits and costs cannot be quantified with precision and consequently S. 1505 does not prevent the consideration of unmeasurable benefits and costs. The OPS assessments also would have to identify both the regulatory and nonregulatory options available when considering a new standard.

S. 1505 subjects the risk assessment information prepared for the Secretary to peer review. The peer review would be conducted by existing panels at OPS, the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee (Technical Committees). The peer review process in the reported bill is based partly on the time-tested review method governing the academic community, a process wherein technical experts offer comments intended to improve the quality of a product. The bill takes advantage of the existing regulatory review process conducted by OPS's committees, committees comprised of government, public and industry experts on pipeline transportation matters. S. 1505 permits the OPS committees the option of making recommendations on the risk assessment information submitted.

It is intended that this process will bring more rationality to federal pipeline safety standard setting and broaden participation by requiring OPS to consider more carefully comments received from

these bodies. The Committee expects that OPS will diligently assist these committees in the conduct of this important function.

Since the performance of risk assessments on every rule may not be justified, S. 1505 specifies four circumstances under which the risk assessment and cost-benefit provisions do not apply. These include situations in which: (1) the standard is the result of a negotiated rulemaking; (2) no significant opposition to the rule is expressed during the public comment process; (3) a proposed rule is endorsed by three-fourths of the Technical Committees; and (4) the exemption for notice and public comment is invoked under the Administrative Procedures Act.

In order for a meaningful analysis of the public policy benefits of risk assessments to be made, the Congress will need to know what they accomplished and whether the designed process was workable. Therefore, the bill requires the Secretary to transmit a report to Congress describing the implementation of the risk assessment requirements and the extent to which the requirements improved regulatory decision making. The report must be submitted no later than March 31, 2000.

RISK MANAGEMENT DEMONSTRATION PROJECTS

The principle of risk management is well tested. It has been extensively studied by the academic community and successfully used in a number of different businesses and industries. Chemical and petrochemical companies have found the risk management process to be more effective than relying solely on regulations.¹ Insurance companies frequently view good risk management as an effective loss prevention process.

Some pipeline companies already use risk management when deciding in which safety measures to invest that go beyond current safety standards. In anticipation of Congressional action, OPS has been developing and validating standards and measures to permit the start of a safe and environmentally sound demonstration program.

Over the past two years, a Government and industry partnership has built a foundation of knowledge and professional understanding for demonstrating risk management in pipeline transportation. Working with State partners and industry, OPS formed risk assessment quality teams (RAQTs) to design a new, collaborative regulatory framework as an alternative to specification-based regulation. The designed approach would permit an operator to substitute an individually-tailored risk management plan for the minimum Federal standards that would otherwise apply.

The reported bill gives OPS the authority to take advantage of this two-year investment and initiate risk management demonstration projects. The demonstration projects provision incorporates principles set forth in a report by the Gas Risk Assessment Quality Team entitled "Risk Management Within the Gas Pipeline Industry", and a similar report by the liquids team entitled "Risk Management Within the Liquid Pipeline Industry."

¹ See Natural Gas Pipeline Risk Management, Volume II-Search of Literature Worldwide on Risk Assessment/Risk Management for Loss of Containment, Gas Research Institute, October 1995.

Under the program envisioned by the legislation, the Secretary would seek voluntary participation by interstate natural gas and hazardous liquid transmission operators in good standing to demonstrate company-specific risk management plans. The Secretary would complete a rulemaking that outlines the demonstration plan elements and provides opportunities for full public participation in the process. The formal risk management plans would be submitted and approved by order of the Secretary. S. 1505 clearly requires that the risk management demonstration plans *meet or exceed* the overall level of safety that would be achieved with existing regulatory requirements. The Committee expects OPS inspectors to monitor diligently the industry's compliance with the OPS approved management plans.

In summary, the risk assessment and risk management provisions of the reported bill rest on the foundations previously established by OPS, industry, and academic communities. The bill builds on initiatives undertaken at OPS to focus its regulatory and programmatic agenda on the most important public safety and environmental protection standards, as well as providing industry with more flexibility to conduct their operations safely. The bill also provides the legislative framework to implement the results of more than two years of planning by OPS and the risk assessment quality teams seeking to promote safety and regulatory flexibility.

STATE PARTNERSHIPS

Current law authorizes the Federal government to reimburse States for up to half the costs incurred in carrying out their responsibilities for monitoring and enforcing national natural gas pipeline safety standards. Although budget constraints preclude guaranteeing States a fifty percent cost reimbursement, the authorization levels in S. 1505 are higher than those in pending House legislation.

OPS must work closely with and inform States about the development of risk management demonstration plans. S. 1505 as reported also gives DOT the discretion to assign responsibility to the States for approval and administration of a risk management demonstration project plan to the extent the affected pipeline facility is an intrastate facility. The bill does not affect the relationship between the States and interstate pipeline operations.

UNUSUALLY SENSITIVE AREAS

Under section 60109 of title 49, U.S. Code, as added by the Pipeline Safety Act of 1992, the Secretary is to describe through regulation the definition of areas unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident. The purpose of the unusually sensitive area description is to define areas within which pipelines' rights of way will be subject to increased testing and inspection. This will ensure that every reasonable measure is taken to prevent a spill and to develop contingency plans on how to respond in the event of an accident. RSPA has held several workshops attended by the public, environmental groups, industry and government representatives to discuss the guiding principles for determining which areas are unusually sensitive to

environmental damage. While the final description is left to the Secretary, Congressional guidance is crucial.

There is language in the bill to provide guidance to DOT. The language makes clear the Secretary should focus on areas in which permanent or long-term environmental damage is likely in the event of a hazardous liquid pipeline accident. For example, such an area would include intake locations for community water systems and critical sole source aquifer protection areas. The bill language provides a more comprehensive, but not exclusive, list of area types.

INSTRUMENTED INTERNAL INSPECTION DEVICES

The 1994 recodification produced confusion as to the original legislative intention concerning the standards for instrumented internal inspection devices (commonly referred to as “smart pigs”). The Committee has worked to clarify this matter by returning the statutory language to the language prior to recodification.

The Committee intends for DOT to have the authority to order a pipeline to run a “smart pig” if circumstances justify such an order. Devices like smart pigs are important safety tools. However, the Committee does not intend to require a wholesale or extensive retrofit of existing pipelines to accommodate specific internal inspection devices such as smart pigs.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and Section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 18, 1996.

Hon. LARRY PRESSLER,
Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1505, the Accountable Pipeline Safety and Partnership Act of 1996.

Enacting S. 1505 would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1505.
2. Bill title: Accountable Pipeline Safety and Partnership Act of 1996.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation on June 6, 1996.

4. Bill purpose: S. 1505 would:

Authorize a total of \$140 million to be appropriated for the gas and hazardous liquid pipeline safety programs and the pipeline safety grant program for fiscal years 1996 through 2000;

make changes to the pipeline safety program;

require the Secretary of Transportation to issue a report on pipeline user fees;

establish a risk management demonstration project;

allow the Secretary of Transportation to make grants to and enter into cooperative agreements with other agencies, state and local governments, educational institutions or other entities to develop, improve, and promote one-call damage prevention programs, research, risk assessment and mapping;

impose criminal penalties on individuals who do not report damaged pipeline facilities to the appropriate authorities; and

impose criminal penalties on individuals who excavate and dispose of solid waste on a pipeline right-of-way without authorization.

5. Estimated cost to the Federal Government: Assuming appropriation of the entire amounts authorized, enacting S. 1505 would increase federal outlays by \$26 million over the 1997–2002 period. That estimate is the difference between gross discretionary spending of \$140 million authorized by the bill, and an estimated \$114 million in pipeline user fees that would be collected over the 1997–2000 period authorized by S. 1505. Enacting S. 1505 would result in such net federal spending because the authorized amounts of gross spending are higher than the amounts of authorized fees for three of the next four fiscal years. While S. 1505 also authorizes funding for the current fiscal year, CBO assumes the bill would be enacted too late in the year to have any impact on 1996 spending.

Enacting S. 1505 would limit the amount that may be collected in user fees for pipeline safety. Under current law, these user fees are mandatory and recorded as offsetting receipts. CBO estimates that fees will total about \$30 million in 1996 and would continue at that level under a simple extension of current law. Because the bill would set limits on fees to be collected from 1997 through 1999 at amounts below \$30 million a year, it would reduce offsetting receipts, thereby causing an increase in direct spending. We estimate that this increase in direct spending would total \$6 million over the 1997–1999 period. The bill's proposed limitation of \$30 million for fiscal year 2000 is equal to our estimate of fees under current law for that year.

The remaining \$20 million in increased federal outlays is shown as spending subject to appropriations. This amount represents authorized increases in spending above the \$30 million level that we project would be offset by pipeline safety fees under current law.

Finally, the bill could also affect revenues by increasing criminal fines, but CBO estimates that any such increase would be less than \$500,000 a year. If criminal fines are collected, they would be deposited in the Crime Victims Fund and spent the following year.

For purposes of this estimate, CBO assumes that the full amounts authorized to be appropriated for pipeline safety activities would be appropriated for each fiscal year. Outlay estimates are

based on historical spending rates. The following table summarizes the estimated budgetary effects of S. 1505.

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
CHANGES IN SPENDING SUBJECT TO APPROPRIATIONS						
Estimated net authorization ¹	4	5	5	6	—	—
Estimated net outlays	2	4	5	5	3	1
CHANGES IN DIRECT SPENDING AND REVENUES						
Direct spending: ²						
Estimated budget authority	3	2	1	—	—	—
Estimated outlays	3	2	1	—	—	—
Revenues:						
Estimated revenues	(3)	(3)	(3)	(3)	(3)	(3)

¹ The amounts shown are the differences between the bill's authorized funding levels for each year and \$30 million, which is the estimated amount of spending that would be offset by fees under a simple extension of current law.

² The amounts shown are the differences between the bill's authorized level of fees (from \$27 million to \$30 million) and CBO's estimate of fee collections (\$30 million) without any such annual limitations.

³ Less than \$500,000.

The costs of this bill fall within budget function 400.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. Because S. 1505 would reduce offsetting receipts from pipeline safety fees and could increase penalty collections pay-as-you-go procedures would apply to the bill. The pay-as-you-go impact of the bill is as follows:

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	0	3	2
Change in receipts	0	0	0

7. Estimated impact on State, local, and tribal governments:

Intergovernmental Mandates. S. 1505 would impose mandates, as defined by Public Law 104-4, on approximately 1,000 local governments with municipal gas operations. The bill would require operators of pipeline facilities to report damage to the approximately authorities promptly and to include information on the use of the one-call notification system in their public education programs. It would also prohibit the dumping of solid waste within pipeline rights-of-way. Based on information from the Department of Transportation and the American Public Gas Association, CBO estimates that the direct costs of complying with these new requirements would be negligible and, thus, well below the \$50 million annual threshold established in Public Law 104-4.

Other Impacts on State, Local, and Tribal Governments. The overall effect of S. 1505 would be to ease requirements on owners and operators of pipelines and pipeline facilities, including municipal gas operators. The bill would authorize the appropriation of approximately \$71 million through fiscal year 2000 for the state pipeline safety grant program. The bill would also give the Secretary of Transportation new authority to make grants to and enter into cooperative agreements with state, local, and tribal governments to carry out other pipeline safety programs, research, risk assessment, and mapping. In addition, the bill would require the Sec-

retary to make certain land use recommendations available to state officials and would provide for states to take over aspects of some risk management demonstration projects. The bill would also eliminate the criminal penalties associated with the establishment of the one-call notification system required of each state.

8. Estimated impact on the private sector: S. 1505 would impose new private-sector mandates not exceeding the annual threshold, as defined in Public Law 104–4. Based on information provided by the Department of Transportation and industry representatives, CBO estimates that these provisions would not substantially affect costs to the private sector.

The damage reporting requirement imposed by section 14 and the prohibition against dumping in pipeline rights-of-way imposed by section 18 would impose private-sector mandates with no direct compliance costs as defined in Public Law 104–4. In addition, the expansion of the public education programs to include the use of one-call systems as required by section 11 would impose a new private-sector mandate, with negligible direct costs. Overall, other sections of S. 1505 would decrease costs imposed on the private sector.

9. Previous CBO estimate: On May 25, 1995, CBO transmitted a cost estimate on H.R. 1323, the Pipeline Safety Act of 1995, as ordered reported by the House Committee on Commerce. In addition, CBO transmitted a cost estimate on April 7, 1995, on H.R. 1323, as ordered reported by the House Committee on Transportation and Infrastructure. The House bills differ from S. 1505 in that they would not result in any net change in new federal spending because the pipeline user fees would continue to be equal to the authorized spending for both versions of H.R. 1323. In addition, S. 1505 authorizes different levels of spending than the two versions of H.R. 1323.

10. Estimate prepared by: Federal Cost Estimate—Clare Doherty and Stephanie Weiner, for revenues; State and local government impact—Karen McVey; Private sector impact—Amy Downs.

11. Estimate approved by: Robert A. Sunshine (for Paul N. Van de Water, Assistant Director for Budget Analysis).

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

S. 1505, as reported, reauthorizes appropriations for Natural Gas and Hazardous Liquid Pipeline Safety programs and activities. The bill does not affect existing pipeline safety standard regulations, but does require OPS to include risk assessments within future individual rulemakings. The bill also authorizes OPS to approve plans submitted by operators to substitute an individually-tailored risk management plan for existing minimum Federal standards.

The bill will not subject any individuals or businesses affected by the bill to additional regulation and will not increase the paperwork requirement for such individuals or businesses. This legislation also has no impact on the personal privacy of individuals.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 cites the short title of the bill as the “Accountable Pipeline Safety and Partnership Act of 1996.”

Section 2. References

Section 2 provides that amendments and references in the bill are to sections and provisions in Title 49, U.S. Code.

Section 3. Definitions

The definitions of “transporting natural gas” and “gathering line” are changed to reflect the law prior to the 1994 recodification. The terms “risk management”, “risk management plan”, and “Secretary” are defined. Section 3 also provides that the Secretary shall define “regulated gathering line”, but only if it is appropriate to do so.

Section 4. General authority

Section 4 (a) applies minimum safety standards to owners and operators of pipeline facilities and requires that operators of facilities must be qualified, but not certified, and must be able to recognize and react appropriately to abnormal operating conditions that may indicate dangerous situations or conditions exceeding design limits.

Section 4(b) broadens section 60102 to require the performance of risk assessments and cost-benefit analyses when prescribing new minimum safety standards under sections 60101 (b) [gathering lines], 60103 [liquefied natural gas pipeline facility standards], 60108 [inspection and maintenance], 60109 [high-density population areas and environmentally sensitive areas], 60110 [excess flow valves], or 60113 [customer-owned natural gas service lines]. The section also requires the Secretary to consider public comments, as well as the comments and recommendations of the Technical Committees, when prescribing new standards.

Section 4 (b) also requires the risk assessments to identify regulatory and nonregulatory options the Secretary considered, identify the costs and benefits associated with the proposed standard, and include an explanation of the reasons for selecting one option over others identified. Section 4(b) further requires the Secretary to submit risk assessment information for review to one or both of the Technical Committees, as appropriate. The submitted risk assessment information shall be available to the public. The Secretary must provide a written response to all significant peer review comments and recommended alternatives, and may revise the risk assessment and the proposed standard before promulgating the final standard.

Section 4(b) provides that except where otherwise required by statute, the Secretary can propose or issue standards only upon a reasoned determination that the benefits of the intended standard justify its costs.

Section 4(b) provides exemptions from the risk assessment provisions. The exemptions cover a standard that is the product of a negotiated rulemaking, or other rulemaking including the adoption of

industry standards that receives no significant adverse comment within 60 days of the Federal Register notice. Risk assessment requirements also do not apply when the Secretary waives the requirement based on a recommendation of three-fourths of the members of one or both of the Technical Committees, as applicable. Finally, the risk assessment provisions do not apply when the Secretary finds, pursuant to section 553(b)(3)(B) of title 5, U.S. Code, that notice and public comment procedures are not required.

Section 4(b) requires the Secretary to send a report to Congress on the application of the bill's provisions and how their application improved regulatory decision making. The report is to be submitted no later than March 31, 2000.

Section 4(c) makes technical changes to facility operation information standards. Section 4(d) moves the authority for the Secretary to collect information regarding gathering facilities to section 60117 of title 49, U.S. Code, for better conformity in the pipeline safety law. Section 4(e) amends section 60102(e) to return the statutory language on instrumented internal inspection devices to the original language that existed prior to the 1994 recodification. Section 4(f) adds a new section 60102(l) to direct the Secretary to update incorporated industry standards, as appropriate.

Section 5. Risk management

Section 5 adds a new section 60126 to title 49, U.S. Code, to authorize risk management demonstration projects. In carrying out a risk management demonstration project, the Secretary shall invite owners and operators of pipelines to submit pipeline safety plans tailored to a particular pipeline or segment of pipeline. The bill requires that the plans achieve an equivalent or greater level of safety than would otherwise be achieved through compliance with existing standards. Under the bill, the Secretary by order may exempt participating pipelines from the applicability of some or all standards that would otherwise apply, and shall exempt them from any new standard promulgated during participation in the demonstration project. The Committee does not intend for the risk management plans to be utilized to avoid compliance, but rather the plans should be used to maintain and improve safety in a more effective and efficient manner. The bill allows the Secretary to revoke any exemption granted for noncompliance with the terms and conditions of a risk management plan approved by order. Nothing in S. 1505 diminishes or modifies the Secretary's authority to act in case of an emergency.

The section also allows the Secretary to provide for consultation by a State that has a state certification (under section 60105) in effect. Under the bill language, the Secretary can make an arrangement with a section 60105 certificated state, to the extent that the project comprises an intrastate natural gas pipeline or an intrastate hazardous liquid pipeline facility, to carry out the duties of the Secretary for approval and administration of the project. The section requires the Secretary to submit a report to Congress evaluating the risk management demonstration projects and recommending whether they should be made permanent. The report must be submitted no later than March 31, 2000.

Section 6. Inspection and maintenance

This section strikes the requirement in section 60108 of title 49, U.S. Code, that the Secretary inspect, every two years, the inspection and maintenance plans each pipeline operator is required to maintain. Instead, the Secretary may determine the frequency of inspections. This section also clarifies that “waters” where underwater pipelines are subject to inspections means areas where a substantial likelihood of commercial navigation exists.

Section 7. High-density population areas and environmentally sensitive areas

Section 7(a) makes the same clarifying change regarding “waters” as in Section 6 above. Section 7(b) provides clearer guidance to the Secretary in describing areas of unusual environmental sensitivity. It makes clear that the Secretary should focus on areas in which permanent or long-term environmental damage is likely and provides a list of more comprehensive, but not exclusive, factors to consider.

Section 8. Excess flow valves

Section 8 makes several changes in section 60110 of title 49, U.S. Code. Section 8(1) restores the words “if any” which were inadvertently deleted during the 1994 recodification. The section also contains provisions providing that the notification from natural gas operators to customers having lines in which excess flow valves are not required, but can be installed, shall include the costs associated with maintenance and replacement as well as the costs of installation. The section also provides that the Secretary may adopt industry accepted performance standards for excess flow valves.

Section 9. Customer-owned natural gas service lines

This section removes the requirement in section 60113 of title 49, U.S. Code, that the Secretary take actions to promote adoption of measures to improve the safety of customer-owned natural gas service lines.

Section 10. Technical Safety Standards Committees

This section provides that the Technical Committees shall serve as peer review committees for purposes of all pipeline safety standards which must undergo risk assessment and peer review. The membership of the committees is modified so that each committee is composed of 5 individuals each from government, industry, and the public, thereby increasing industry representatives from 4 to 5 and reducing public representatives from 6 to 5. The section requires that at least one individual on each committee must have experience in risk assessment and cost-benefit analysis. All risk assessment information and other analyses supporting proposed standards must be submitted to the committees for review. Also, the section raises the number of meetings that can be held by the committees from two, to up to four a year.

Section 11. Public education programs

This section makes a technical correction to section 60116. The section also broadens public education programs carried out by nat-

ural gas owners and operators to include the use of one-call systems prior to excavation to prevent pipeline damage.

Section 12. Administrative

Section 12(1) retains the Secretary's authority to request information from gathering line operators. Under the section's language, the information requested must be pertinent to the Secretary's ability to determine what additional gathering lines should be regulated.

Section 12(2) authorizes the Secretary to enter into grants, cooperative agreements, and other transactions with any person, agency, State and local government, educational institution, or other entity. Further, the section permits the Secretary to provide funding to one-call programs not operated by States.

Section 13. Compliance

This section allows the Secretary to issue orders directing compliance with applicable safety standards, with an order issued under section 60126 [the Risk Management Demonstration Projects] or with a prescribed regulation. The order issued under this section must state clearly the action a person must take to comply.

Section 14. Damage reporting

This section makes it a federal crime to knowingly and willfully damage a pipeline facility and not promptly report the damage to the pipeline operator and other appropriate authorities.

Section 15. Biennial reports

This section requires reports every two years to Congress whereas existing law (section 60124) mandates that an annual report be submitted.

Section 16. Population encroachment

This section requires the Secretary to make available to State pipeline officials the land use recommendations from the Transportation Research Board's special report entitled "Pipelines and Public Safety." This section also directs the Secretary to evaluate those recommendations, determine to what extent they are being implemented, consider ways to improve their implementation and consider other initiatives to improve the awareness of local planning and zoning entities regarding population encroachment in proximity to rights-of-way of interstate pipeline facilities.

Section 17. User fees

This section requires the Secretary to analyze whether the current methodology for allocating user fees among pipelines is an accurate measure of the resources used to regulate pipeline safety. This provision is intended to ensure that fees charged are proportional to services rendered. The section requires the Secretary, in preparing the report, to consider a wide range of assessment factors and suggestions and comments from the public.

Section 18. Dumping within pipeline rights-of-way

This section prohibits unauthorized dumping in pipeline rights-of-way. This section also allows the Secretary to seek the civil or criminal penalties that are already provided for in the pipeline safety law for rights-of-way unauthorized dumping.

Section 19. Prevention of damage to pipeline facilities

This section allows the Secretary to undertake promotional activities that help prevent damage to pipeline facilities.

Section 20. Technical corrections

Various technical corrections to sections of Chapter 601 of title 49 are made by this section.

Section 21. Authorization of appropriations

Gas and hazardous liquid activities are authorized at the following levels and in the following manner:

- \$19,448,000 for fiscal year 1996.
- \$20,028,000 for fiscal year 1997, of which \$14,600,000 is to be derived from user fees collected for fiscal year 1997.
- \$20,729,000 for fiscal year 1998, of which \$15,100,000 is to be derived from user fees collected for fiscal year 1998.
- \$21,442,000 for fiscal year 1999, of which \$15,700,000 is to be derived from user fees collected for fiscal year 1999.
- \$22,194,000 for fiscal year 2000, of which \$16,300,000 is to be derived from user fees collected for fiscal year 2000.

Pipeline State Safety Grants are authorized at the following levels and in the following manner:

- \$12,000,000 for fiscal year 1996.
- \$14,000,000 for fiscal year 1997, of which \$12,500,000 is to be derived from user fees collected for fiscal year 1997.
- \$14,490,000 for fiscal year 1998, of which \$12,900,000 is to be derived from user fees collected for fiscal year 1998.
- \$15,000,000 for fiscal year 1999, of which \$13,300,000 is to be derived from user fees collected for fiscal year 1999.
- \$15,524,000 for fiscal year 2000, of which \$13,700,000 is to be derived from user fees collected for fiscal year 2000.

The Committee by this section expects the total new user fee collections for the pipeline activities authorized under section 21 will be limited to \$27,100,000 in fiscal year 1997, \$28,000,000 in fiscal year 1998, \$29,000,000 in fiscal year 1999, and \$30,000,000 in fiscal year 2000. The Committee further intends that the differences between the funds authorized and the new user fee collections authorized will come from sources other than new user fee collections. These sources include a planned and reasonable draw down of the user fees collected during fiscal year 1985 and 1987 and currently held in reserve. Another source is additional funding from the Oil Spill Liability Trust Fund which covers OPS responsibilities under the Oil Pollution Act.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as

reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

§ 60101. Definitions

- (a) In this chapter [49 U.S.C. 60101 et seq.]—
 - (1) “existing liquefied natural gas facility”—
 - (A) means a liquefied natural gas facility for which an application to approve the site, construction, or operation of the facility was filed before March 1, 1978, with—
 - (i) the Federal Energy Regulatory Commission (or any predecessor); or
 - (ii) the appropriate State or local authority, if the facility is not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but
 - (B) does not include a facility on which construction is begun after November 29, 1979, without the **[approval.]** *approval*;
 - (2) “gas” means natural gas, flammable gas, or toxic or corrosive **[gas.]** *gas*;
 - (3) “gas pipeline facility” includes a pipeline, a right of way, a facility, a building, or equipment used in transporting gas or treating gas during its **[transportation.]** *transportation*;
 - (4) “hazardous liquid” means—
 - (A) petroleum or a petroleum product; and
 - (B) a substance the Secretary of Transportation decides may pose an unreasonable risk to life or property when transported by a hazardous liquid pipeline facility in a liquid state (except for liquefied natural **[gas.]** *gas*);
 - (5) “hazardous liquid pipeline facility” includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous **[liquid.]** *liquid*;
 - (6) “interstate gas pipeline facility”—
 - (A) means a gas pipeline facility—
 - (i) used to transport gas; and
 - (ii) subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but
 - (B) does not include a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own **[consumption.]** *consumption*;
 - (7) “interstate hazardous liquid pipeline facility” means a hazardous liquid pipeline facility used to transport hazardous liquid in interstate or foreign **[commerce.]** *commerce*;
 - (8) “interstate or foreign commerce”—
 - (A) related to gas, means commerce—
 - (i) between a place in a State and a place outside that State; or
 - (ii) that affects any commerce described in subclause (A)(i) of this clause; and
 - (B) related to hazardous liquid, means commerce between—

- (i) a place in a State and a place outside that State;
or
- (ii) places in the same State through a place outside the **[State.] State**;
- (9) “intrastate gas pipeline facility” means—
 - (A) a gas pipeline facility and transportation of gas within a State not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); and
 - (B) a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own **[consumption.] consumption**;
- (10) “intrastate hazardous liquid pipeline facility” means a hazardous liquid pipeline facility that is not an interstate hazardous liquid pipeline **[facility.] facility**;
- (11) “liquefied natural gas” means natural gas in a liquid or semisolid **[state.] state**;
- (12) “liquefied natural gas accident” means a release, burning, or explosion of liquefied natural gas from any cause, except a release, burning, or explosion that, under regulations prescribed by the Secretary, does not pose a threat to public health or safety, property, or the **[environment.] environment**;
- (13) “liquefied natural gas conversion” means conversion of natural gas into liquefied natural gas or conversion of liquefied natural gas into natural **[gas.] gas**;
- (14) “liquefied natural gas pipeline facility”—
 - (A) means a gas pipeline facility used for transporting or storing liquefied natural gas, or for liquefied natural gas conversion, in interstate or foreign commerce; but
 - (B) does not include any part of a structure or equipment located in navigable waters (as defined in section 3 of the Federal Power **[Act (16 U.S.C. 796).] Act (16 U.S.C. 796)**);
- (15) “municipality” means a political subdivision of a **[State.] State**;
- (16) “new liquefied natural gas pipeline facility” means a liquefied natural gas pipeline facility except an existing liquefied natural gas pipeline **[facility.] facility**;
- (17) “person”, in addition to its meaning under section 1 of title 1 **[1 U.S.C. 1]** (except as to societies), includes a State, a municipality, and a trustee, receiver, assignee, or personal representative of a **[person.] person**;
- (18) “pipeline facility” means a gas pipeline facility and a hazardous liquid pipeline **[facility.] facility**;
- (19) “pipeline transportation” means transporting gas and transporting hazardous **[liquid.] liquid**;
- (20) “State” means a State of the United States, the District of Columbia, and Puerto **[Rico.] Rico**;
- (21) “transporting gas”—
 - (A) means—
 - (i) the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce; and

(ii) the movement of gas through regulated gathering lines; but

[(B) does not include gathering gas (except through regulated gathering lines) in a rural area outside a populated area designated by the Secretary as a nonrural area.]

(B) does not include the gathering of gas, other than gathering through regulated gathering lines, in those rural locations that are located outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area (including a subdivision, business, shopping center, or community development) or any similar populated area that the Secretary of Transportation determines to be a nonrural area, except that the term “transporting gas” includes the movement of gas through regulated gathering lines;

(22) “transporting hazardous liquid”—

(A) means—

(i) the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline, in or affecting interstate or foreign commerce; and

(ii) the movement of hazardous liquid through regulated gathering lines; but

(B) does not include moving hazardous liquid through—

(i) gathering lines (except regulated gathering lines) in a rural area;

(ii) onshore production, refining, or manufacturing facilities; or

(iii) storage or in-plant piping systems associated with onshore production, refining, or manufacturing [facilities.] facilities;

(23) “risk management” means the systematic application, by the owner or operator of a pipeline facility, of management policies, procedures, finite resources, and practices to the tasks of identifying, analyzing, assessing, reducing, and controlling risk in order to protect employees, the general public, the environment, and pipeline facilities;

(24) “risk management plan” means a management plan utilized by a gas or hazardous liquid pipeline facility owner or operator that encompasses risk management; and

(25) “Secretary” means the Secretary of Transportation.

(b) GATHERING LINES.—

(1)(A) Not later than October 24, 1994, the Secretary shall [define by regulation] prescribe standards defining the term “gathering line”.

(B) In defining “gathering line” for gas, the Secretary—

(i) shall consider functional and operational characteristics of the lines to be included in the definition; and

(ii) is not bound by a classification the Commission establishes under the Natural Gas Act (15 U.S.C. 717 et seq.).

(2)(A) Not later than October 24, 1995, the [Secretary] Secretary, if appropriate, shall [define by regulation] prescribe standards defining the term “regulated gathering line”. In de-

fining the term, the Secretary shall consider factors such as location, length of line from the well site, operating pressure, throughput, and the composition of the transported gas or hazardous liquid, as appropriate, in deciding on the types of lines that functionally are gathering but should be regulated under this chapter [49 U.S.C. 60101 et seq.] because of specific physical characteristics.

(B)(i) The Secretary also shall consider diameter when defining “regulated gathering line” for hazardous liquid.

(ii) The definition of “regulated gathering line” for hazardous liquid may not include a crude oil gathering line that has a nominal diameter of not more than 6 inches, is operated at low pressure, and is located in a rural area that is not unusually sensitive to environmental damage.

§ 60102. General authority

(a)(1) Minimum safety standards. The Secretary of Transportation shall prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The standards—

(A) apply to [transporters of gas and hazardous liquid and to] owners and operators of pipeline facilities;

(B) may apply to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities; and

[(C) shall include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to operate and maintain those facilities.]

(C) shall include a requirement that all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities.

[(2) As the Secretary considers appropriate, the operator of a pipeline facility may make the certification under paragraph (1)(C) of this subsection. Testing and certification under paragraph (1)(C) shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits.]

(2) The qualifications applicable to an individual who operates and maintains a pipeline facility shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits. The operator of a pipeline facility shall ensure that employees who operate and maintain the facility are qualified to operate and maintain the pipeline facilities.

[(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—

[A standard prescribed under subsection (a) of this section shall be practicable and designed to meet the need for gas pipeline safety, for safely transporting hazardous liquid, and for protecting the environment. Except as provided in section 60103 of this title, when prescribing the standard the Secretary shall consider—

[(1) relevant available—

[(A) gas pipeline safety information; or

[(B) hazardous liquid pipeline information;

[(2) the appropriateness of the standard for the particular type of pipeline transportation or facility;

[(3) the reasonableness of the standard; and

[(4) the extent to which the standard will contribute to public safety and the protection of the environment.]

(b) *PRACTICABILITY AND SAFETY NEEDS STANDARDS.*—

(1) *IN GENERAL.*—A standard prescribed under subsection (a) shall be—

(A) practicable; and

(B) designed to meet the need for

(i) gas pipeline safety, or safely transporting hazardous liquids, as appropriate; and

(ii) protecting the environment.

(2) *FACTORS FOR CONSIDERATION.*—When prescribing any standard under this section or section 60101(b), 60103, 60108, 60109, 60110, or 60113, the Secretary shall consider—

(A) relevant available—

(i) gas pipeline safety information;

(ii) hazardous liquid pipeline safety information; and

(iii) environmental information;

(B) the appropriateness of the standard for the particular type of pipeline transportation or facility;

(C) the reasonableness of the standard;

(D) based on a risk assessment, the reasonably identifiable or estimated benefits expected to result from implementation or compliance with the standard;

(E) based on a risk assessment, the reasonably identifiable or estimated costs expected to result from implementation or compliance with the standard;

(F) comments and information received from the public; and

(G) the comments and recommendations of the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate.

(3) *RISK ASSESSMENT.*—In prescribing a standard referred to in paragraph (2), the Secretary shall—

(A) identify the regulatory and nonregulatory options that the Secretary considered in prescribing a proposed standard;

(B) identify the costs and benefits associated with the proposed standard;

(C) include—

(i) an explanation of the reasons for the selection of the proposed standard in lieu of the other options identified; and

(ii) with respect to each of those other options, a brief explanation of the reasons that the Secretary did not select the option; and

(D) identify technical data or other information upon which the risk assessment information and proposed standard is based.

(4) *REVIEW.*—

(A) *IN GENERAL.*—The Secretary shall—

(i) submit risk assessment information prepared under paragraph (3) of this subsection to the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate; and

(ii) make that risk assessment information available to the general public.

(B) *PEER REVIEW PANELS.*—The committees referred to in subparagraph (A) shall serve as peer review panels to review risk assessment information prepared under this section. Not later than 90 days after receiving risk assessment information for review pursuant to subparagraph (A), each committee that receives that risk assessment information shall prepare and submit to the Secretary a report that includes—

(i) an evaluation of the merit of the data and methods used; and

(ii) any recommended options relating to that risk assessment information and the associated standard that the committee determines to be appropriate.

(C) *REVIEW BY SECRETARY.*—Not later than 90 days after receiving a report submitted by a committee under subparagraph (B), the Secretary—

(i) shall review the report;

(ii) shall provide a written response to the committee that is the author of the report concerning all significant peer review comments and recommended alternatives contained in the report; and

(iii) may revise the risk assessment and the proposed standard before promulgating the final standard.

(5) *SECRETARIAL DECISIONMAKING.*—Except where otherwise required by statute, the Secretary shall propose or issue a standard under this Chapter only upon a reasoned determination that the benefits of the intended standard justify its costs.

(6) *EXCEPTIONS FROM APPLICATION.*—The requirements of this subsection do not apply when—

(A) the standard is the product of a negotiated rulemaking, or other rulemaking including the adoption of industry standards that receives no significant adverse comment within 60 days of notice in the Federal Register;

(B) based on a recommendation (in which three-fourths of the members voting concur) by the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as applicable, the Secretary waives the requirements; or

(C) the Secretary finds, pursuant to section 553 (b)(3)(B) of title 5, United States Code, that notice and public procedure are not required.

(7) *REPORT.*—Not later than March 31, 2000, the Secretary shall transmit to the Congress a report that—

(A) describes the implementation of the risk assessment requirements of this section, including the extent to which those requirements have improved regulatory decision making; and

(B) includes any recommendations that the Secretary determines would make the risk assessment process conducted pursuant to the requirements under this chapter a more effective means of assessing the benefits and costs associated with alternative regulatory and nonregulatory options in prescribing standards under the Federal pipeline safety regulatory program under this chapter.

(c) PUBLIC SAFETY PROGRAM REQUIREMENTS.—

(1) The Secretary shall include in the standards prescribed under subsection (a) of this section a requirement that an operator of a gas pipeline facility participate in a public safety program that—

(A) notifies an operator of proposed demolition, excavation, tunneling, or construction near or affecting the facility;

(B) requires an operator to identify a pipeline facility that may be affected by the proposed demolition, excavation, tunneling, or construction, to prevent damaging the facility; and

(C) the Secretary decides will protect a facility adequately against a hazard caused by demolition, excavation, tunneling, or construction.

(2) To the extent a public safety program referred to in paragraph (1) of this subsection is not available, the Secretary shall prescribe standards requiring an operator to take action the Secretary prescribes to provide services comparable to services that would be available under a public safety program.

(3) The Secretary may include in the standards prescribed under subsection (a) of this section a requirement that an operator of a hazardous liquid pipeline facility participate in a public safety program meeting the requirements of paragraph (1) of this subsection or maintain and carry out a damage prevention program that provides services comparable to services that would be available under a public safety program.

(d) FACILITY OPERATION INFORMATION STANDARDS.—The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility subject to this chapter [49 U.S.C. 60101 et seq.] to maintain, to the extent practicable, information related to operating the facility *as required by the standards prescribed under this chapter* and, when requested, **[to provide the information]** *to make the information available to the Secretary and an appropriate State official as determined by the Secretary.* The information shall include—

(1) the business name, address, and telephone number, including an operations emergency telephone number, of the operator;

(2) accurate maps and a supplementary geographic description, including an identification of areas described in regulations prescribed under section 60109 of this title, that show the location in the State of—

(A) major gas pipeline facilities of the operator, including transmission lines and significant distribution lines; and

(B) major hazardous liquid pipeline facilities of the operator;

(3) a description of—

(A) the characteristics of the operator's pipelines in the State; and

(B) products transported through the operator's pipelines in the State;

(4) the manual that governs operating and maintaining pipeline facilities in the State;

(5) an emergency response plan describing the operator's procedures for responding to and containing releases, including—

(A) identifying specific action the operator will take on discovering a release;

(B) liaison procedures with State and local authorities for emergency response; and

(C) communication and alert procedures for immediately notifying State and local officials at the time of a release; and

(6) other information the Secretary considers useful to inform a State of the presence of pipeline facilities and operations in the State.

(e) PIPE INVENTORY STANDARDS.—The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility subject to this chapter [49 U.S.C. 60101 et seq.] [and, to the extent the Secretary considers necessary, an operator of a gathering line that is not a regulated gathering line (as defined under section 60101(b)(2) of this title),] to maintain for the Secretary, to the extent practicable, an inventory with appropriate information about the types of pipe used for the transmission of gas or hazardous liquid, as appropriate, in the operator's system and additional information, including the material's history and the leak history of the pipe. The inventory—

(1) for a gas pipeline facility, shall include an identification of each facility passing through an area described in regulations prescribed under section 60109 of this title but shall exclude equipment used with the compression of gas; and

(2) for a hazardous liquid pipeline facility, shall include an identification of each facility and gathering line passing through an area described in regulations prescribed under section 60109 of this title, whether the facility or gathering line otherwise is subject to this chapter [49 U.S.C. 60101 et seq.], but shall exclude equipment associated only with the pipeline pumps or storage facilities.

(f) STANDARDS AS ACCOMMODATING "SMART PIGS".—

[(1) The Secretary shall prescribe minimum safety standards requiring that the design and construction of a new gas pipeline transmission facility or hazardous liquid pipeline facility, and the required replacement of an existing gas pipeline transmission facility, hazardous liquid pipeline facility, or equipment, be carried out, to the extent practicable, in a way that accommodates the passage through the facility of an instrumented internal inspection device (commonly referred to as a "smart pig"). The Secretary may apply the standard to an existing gas or hazardous liquid transmission facility and require the facility to be changed to allow the facility to be inspected

with an instrumented internal inspection device if the basic construction of the facility will accommodate the device.】

“(1) *MINIMUM SAFETY STANDARDS.*—*The Secretary shall prescribe minimum safety standards requiring that —*

“(A) *the design and construction of new natural gas transmission pipeline or hazardous liquid pipeline facilities, and*

(B) when the replacement of existing natural gas transmission pipeline or hazardous liquid pipeline facilities or equipment is required, the replacement of such existing facilities, be carried out, to the extent practicable, in a manner so as to accommodate the passage through such natural gas transmission pipeline or hazardous liquid pipeline facilities of instrumented internal inspection devices (commonly referred to as “smart pigs”). The Secretary may extend such standards to require existing natural gas transmission pipeline or hazardous liquid pipeline facilities, whose basic construction would accommodate an instrumented internal inspection device to be modified to permit the inspection of such facilities with instrumented internal inspection devices.

【(2) Not later than】 (2) *PERIODIC INSPECTIONS.*—*Not later than October 24, 1995, the Secretary shall 【prescribe】 prescribe, if necessary, additional 【regulations】 standards requiring the periodic inspection of each pipeline the operator of the pipeline identifies under section 60109 of this title. The 【regulations】 standards shall include any circumstances under which an inspection shall be conducted with an instrumented internal inspection device and, if the device is not required, use of an inspection method that is at least as effective as using the device in providing for the safety of the pipeline.*

(g) *EFFECTIVE DATES.*—A standard prescribed under this section and section 60110 of this title is effective on the 30th day after the Secretary prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.

(h) *SAFETY CONDITION REPORTS.*—

(1) The Secretary shall prescribe regulations requiring each operator of a pipeline facility (except a master meter) to submit to the Secretary a written report on any—

(A) condition that is a hazard to life, property, or the environment; and

(B) safety-related condition that causes or has caused a significant change or restriction in the operation of a pipeline facility.

(2) The Secretary must receive the report not later than 5 working days after a representative of a person to which this section applies first establishes that the condition exists. Notice of the condition shall be given concurrently to appropriate State authorities.

(i) *CARBON DIOXIDE REGULATION.*—The Secretary shall regulate carbon dioxide transported by a hazardous liquid pipeline facility. The Secretary shall prescribe 【regulations】 *standards* related to

hazardous liquid to ensure the safe transportation of carbon dioxide by such a facility.

(j) EMERGENCY FLOW RESTRICTING DEVICES.—

(1) Not later than October 24, 1994, the Secretary shall survey and assess the effectiveness of emergency flow restricting devices (including remotely controlled valves and check valves) and other procedures, systems, and equipment used to detect and locate hazardous liquid pipeline ruptures and minimize product releases from hazardous liquid pipeline facilities.

(2) Not later than 2 years after the survey and assessment are completed, the Secretary shall prescribe [regulations] *standards* on the circumstances under which an operator of a hazardous liquid pipeline facility must use an emergency flow restricting device or other procedure, system, or equipment described in paragraph (1) of this subsection on the facility.

(k) PROHIBITION AGAINST LOW INTERNAL STRESS EXCEPTION.—The Secretary may not provide an exception to this chapter [49 U.S.C. 60101 et seq.] for a hazardous liquid pipeline facility only because the facility operates at low internal stress.

(l) *UPDATING STANDARDS.—The Secretary shall, to the extent appropriate and practicable, update incorporated industry standards that have been adopted as part of the Federal pipeline safety regulatory program under this chapter.*

§ 60105. State pipeline safety program certifications

(a) GENERAL REQUIREMENTS AND SUBMISSION.—Except as provided in this section and sections 60114 and 60121 of this title, the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a State authority (including a municipality if the standards and practices apply to intrastate gas pipeline transportation) that submits to the Secretary annually a certification for the facilities and transportation that complies with subsections (b) and (c) of this section.

(b) CONTENTS.—Each certification submitted under subsection (a) of this section shall state that the State authority—

(1) has regulatory jurisdiction over the standards and practices to which the certification applies;

(2) has adopted, by the date of certification, each applicable standard prescribed under this chapter [49 U.S.C. 60101 et seq.] or, if a standard under this chapter [49 U.S.C. 60101 et seq.] was prescribed not later than 120 days before certification, is taking steps to adopt that standard;

(3) is enforcing each adopted standard through ways that include inspections conducted by State employees meeting the qualifications the Secretary prescribes under section 60107(d)(1)(C) of this title;

(4) is encouraging and promoting programs designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies;

(5) may require record maintenance, reporting, and inspection substantially the same as provided under section 60117 of this title;

(6) may require that plans for inspection and maintenance under section 60108 (a) and (b) of this title be filed for approval; and

(7) may enforce safety standards of the authority under a law of the State by injunctive relief and civil penalties substantially the same as provided under sections 60120 and 60122(a)(1) and (b)–(f) of this title.

(c) REPORTS.—

(1) Each certification submitted under subsection (a) of this section shall include a report that contains—

(A) the name and address of each person to whom the certification applies that is subject to the safety jurisdiction of the State authority;

(B) each accident or incident reported during the prior 12 months by that person involving a fatality, personal injury requiring hospitalization, or property damage or loss of more than an amount the Secretary establishes (even if the person sustaining the fatality, personal injury, or property damage or loss is not subject to the safety jurisdiction of the authority), any other accident the authority considers significant, and a summary of the investigation by the authority of the cause and circumstances surrounding the accident or incident;

(C) the record maintenance, reporting, and inspection practices conducted by the authority to enforce compliance with safety standards prescribed under this chapter [49 U.S.C. 60101 et seq.] to which the certification applies, including the number of inspections of pipeline facilities the authority made during the prior 12 months; and

(D) any other information the Secretary requires.

(2) The report included in the first certification submitted under subsection (a) of this section is only required to state information available at the time of certification.

(d) APPLICATION.—A certification in effect under this section does not apply to safety standards prescribed under this chapter [49 U.S.C. 60101 et seq.] after the date of certification. This chapter [49 U.S.C. 60101 et seq.] applies to each applicable safety standard prescribed after the date of certification until the State authority adopts the standard and submits the appropriate certification to the Secretary under subsection (a) of this section.

(e) MONITORING.—The Secretary may monitor a safety program established under this section to ensure that the program complies with the certification. A State authority shall cooperate with the Secretary under this subsection.

(f) REJECTIONS OF CERTIFICATION.—If after receiving a certification the Secretary decides the State authority is not enforcing satisfactorily compliance with applicable safety standards prescribed under this chapter [49 U.S.C. 60101 et seq.], the Secretary may reject the certification, assert United States Government jurisdiction, or take other appropriate action to achieve adequate enforcement. The Secretary shall give the authority notice and an op-

portunity for a hearing before taking final action under this subsection. When notice is given, the burden of proof is on the authority to demonstrate that it is enforcing satisfactorily compliance with the prescribed standards.

§ 60106. State pipeline safety agreements

(a) GENERAL AUTHORITY.—If the Secretary of Transportation does not receive a certification under section 60105 of this title, the Secretary may make an agreement with a State authority (including a municipality if the agreement applies to intrastate gas pipeline transportation) authorizing it to take necessary action. Each agreement shall—

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with applicable safety standards prescribed under this chapter [49 U.S.C. 60101 et seq.]; and

(2) prescribe procedures for approval of plans of inspection and maintenance substantially the same as required under section 60108 (a) and (b) of this title.

(b) NOTIFICATION.—Each agreement shall require the State authority to notify the Secretary promptly of a violation or probable violation of an applicable safety standard discovered as a result of action taken in carrying out an agreement under this section.

(c) MONITORING.—The Secretary may monitor a safety program established under this section to ensure that the program complies with the agreement. A State authority shall cooperate with the Secretary under this subsection.

(d) ENDING AGREEMENTS.—The Secretary may end an agreement made under this section when the Secretary finds that the State authority has not complied with any provision of the agreement. The Secretary shall give the authority notice and an opportunity for a hearing before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.

§ 60107. State pipeline safety grants

(a) GENERAL AUTHORITY.—If a State authority files an application not later than September 30 of a calendar year, the Secretary of Transportation shall pay not more than 50 percent of the cost of the personnel, equipment, and activities the authority reasonably requires during the next calendar year—

(1) to carry out a safety program under a certification under section 60105 of this title or an agreement under section 60106 of this title; or

(2) to act as an agent of the Secretary on interstate gas pipeline facilities or interstate hazardous liquid pipeline facilities.

(b) PAYMENTS.—After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program and that the total State amount spent

for a safety program (excluding grants of the United States Government) will at least equal the average amount spent—

(1) for a gas safety program, for the fiscal years that ended June 30, 1967, and June 30, 1968; and

(2) for a hazardous liquid safety program, for the fiscal years that ended September 30, 1978, and September 30, 1979.

(c) APPORTIONMENT AND METHOD OF PAYMENT.—The Secretary shall apportion the amount appropriated to carry out this section among the States. A payment may be made under this section in installments, in advance, or on a reimbursable basis.

(d) ADDITIONAL AUTHORITY AND CONSIDERATIONS.—

(1) The Secretary may prescribe—

(A) the form of, and way of filing, an application under this section;

(B) reporting and fiscal procedures the Secretary considers necessary to ensure the proper accounting of money of the Government; and

(C) qualifications for a State to meet to receive a payment under this section, including qualifications for State employees who perform inspection activities under section 60105 or 60106 of this title.

(2) The qualifications prescribed under paragraph (1)(C) of this subsection may—

(A) consider the experience and training of the employee;

(B) order training or other requirements; and

(C) provide for approval of qualifications on a conditional basis until specified requirements are met.

§ 60108. Inspection and maintenance

(a) PLANS.—

(1) Each person [transporting gas or hazardous liquid or] owning or operating an intrastate gas pipeline facility or hazardous liquid pipeline facility shall carry out a current written plan (including any changes) for inspection and maintenance of each facility used in the transportation and owned or operated by the person. A copy of the plan shall be kept at any office of the person the Secretary of Transportation considers appropriate. The Secretary also may require a person [transporting gas or hazardous liquid or] owning or operating a pipeline facility subject to this chapter [49 U.S.C. 60101 et seq.] to file a plan for inspection and maintenance for approval.

(2) If the Secretary or a State authority responsible for enforcing standards prescribed under this chapter [49 U.S.C. 60101 et seq.] decides that a plan required under paragraph (1) of this subsection is inadequate for safe operation, the Secretary or authority shall require the person to revise the plan. Revision may be required only after giving notice and an opportunity for a hearing. A plan required under paragraph (1) must be practicable and designed to meet the need for pipeline safety and must include terms designed to enhance the ability to discover safety-related conditions described in section 60102(h)(1) of this title. In deciding on the adequacy of a plan, the Secretary or authority shall consider—

(A) relevant available pipeline safety information;

- (B) the appropriateness of the plan for the particular kind of pipeline transportation or facility;
- (C) the reasonableness of the plan; and
- (D) the extent to which the plan will contribute to public safety and the protection of the environment.

(3) A plan required under this subsection shall be made available to the Secretary or State authority on request under section 60117 of this title.

(b) INSPECTION AND TESTING.—

(1) The Secretary shall inspect and require appropriate testing of a pipeline facility subject to this chapter [49 U.S.C. 60101 et seq.] that is not covered by a certification under section 60105 of this title or an agreement under section 60106 of this title. The Secretary shall decide on the frequency and type of inspection and testing under this subsection on a case-by-case basis after considering the following:

- (A) the location of the pipeline facility.
- (B) the type, size, age, manufacturer, method of construction, and condition of the pipeline facility.
- (C) the nature and volume of material transported through the pipeline facility.
- (D) the pressure at which that material is transported.
- (E) climatic, geologic, and seismic characteristics (including soil characteristics) and conditions of the area in which the pipeline facility is located.
- (F) existing and projected population and demographic characteristics of the area in which the pipeline facility is located.
- (G) for a hazardous liquid pipeline facility, the proximity of the area in which the facility is located to an area that is unusually sensitive to environmental damage.
- (H) the frequency of leaks.
- (I) other factors the Secretary decides are relevant to the safety of pipeline facilities.

(2) To the extent and in amounts provided in advance in an appropriation law, the Secretary shall decide on the frequency of inspection under paragraph (1) of this subsection. However, an inspection must occur at least once every 2 years. [The Secretary may reduce the frequency of an inspection of a master meter system.]

(3) Testing under this subsection shall use the most appropriate technology practicable.

(c) PIPELINE FACILITIES OFFSHORE AND IN [NAVIGABLE WATERS] OTHER WATERS.—

(1) In this subsection—

- (A) “abandoned” means permanently removed from service.
- (B) “pipeline facility” includes an underwater abandoned pipeline facility.
- (C) if a pipeline facility has no operator, the most recent operator of the facility is deemed to be the operator of the facility.

(2)(A) Not later than May 16, 1993, on the basis of experience with the inspections under section 3(h)(1)(A) of the Natu-

ral Gas Pipeline Safety Act of 1968 or section 203(l)(1)(A) of the Hazardous Liquid Pipeline Safety Act of 1979, as appropriate, and any other information available to the Secretary, the Secretary shall establish a mandatory, systematic, and, where appropriate, periodic inspection program of—

(i) all offshore pipeline facilities; and

(ii) any other pipeline facility crossing under, over, or through navigable waters (as defined by the Secretary) if the Secretary decides that the location of the facility in those navigable waters could pose a hazard to navigation or public safety.

(B) In prescribing [regulations] *standards* to carry out subparagraph (A) of this paragraph—

(i) the Secretary shall identify what is a hazard to navigation with respect to an underwater abandoned pipeline facility; and

[(ii) for an underwater pipeline facility abandoned after October 24, 1992, the Secretary shall include requirements that will lessen the potential that the facility will pose a hazard to navigation and shall consider the relationship between water depth and navigational safety and factors relevant to the local marine environment.]

(ii) any other pipeline facility crossing under, over, or through waters where a substantial likelihood of commercial navigation exists, if the Secretary decides that the location of the facility in those waters could pose a hazard to navigation or public safety.

(3)(A) The Secretary shall establish by regulation a program requiring an operator of a pipeline facility described in paragraph (2) of this subsection to report a potential or existing navigational hazard involving that pipeline facility to the Secretary through the appropriate Coast Guard office.

(B) The operator of a pipeline facility described in paragraph (2) of this subsection that discovers any part of the pipeline facility that is a hazard to navigation shall mark the location of the hazardous part with a Coast-Guard-approved marine buoy or marker and immediately shall notify the Secretary as provided by the Secretary under subparagraph (A) of this paragraph. A marine buoy or marker used under this subparagraph is deemed a pipeline sign or right-of-way marker under section 60123(c) of this title.

(4)(A) The Secretary shall [require by regulation] *establish a standard* that each pipeline facility described in paragraph (2) of this subsection that is a hazard to navigation is buried not later than 6 months after the date the condition of the facility is reported to the Secretary. The Secretary may extend that 6-month period for a reasonable period to ensure compliance with this paragraph.

(B) In prescribing [regulations] *standards* for subparagraph (A) of this paragraph for an underwater pipeline facility abandoned after October 24, 1992, the Secretary shall include requirements that will lessen the potential that the facility will pose a hazard to navigation and shall consider the relationship

between water depth and navigational safety and factors relevant to the local marine environment.

(5)(A) Not later than October 24, 1994, the Secretary shall establish standards on what is an exposed offshore pipeline facility and what is a hazard to navigation under this subsection.

(B) Not later than 6 months after the Secretary establishes standards under subparagraph (A) of this paragraph, or October 24, 1995, whichever occurs first, the operator of each offshore pipeline facility not described in section 3(h)(1)(A) of the Natural Gas Pipeline Safety Act of 1968 or section 203(l)(1)(A) of the Hazardous Liquid Pipeline Safety Act of 1979, as appropriate, shall inspect the facility and report to the Secretary on any part of the facility that is exposed or is a hazard to navigation. This subparagraph applies only to a facility that is between the high water mark and the point at which the subsurface is under 15 feet of water, as measured from mean low water. An inspection that occurred after October 3, 1989, may be used for compliance with this subparagraph if the inspection conforms to the requirements of this subparagraph.

(C) The Secretary may extend the time period specified in subparagraph (B) of this paragraph for not more than 6 months if the operator of a facility satisfies the Secretary that the operator has made a good faith effort, with reasonable diligence, but has been unable to comply by the end of that period.

(6)(A) The operator of a pipeline facility abandoned after October 24, 1992, shall report the abandonment to the Secretary in a way that specifies whether the facility has been abandoned properly according to applicable United States Government and State requirements.

(B) Not later than October 24, 1995, the operator of a pipeline facility abandoned before October 24, 1992, shall report to the Secretary reasonably available information related to the facility, including information that a third party possesses. The information shall include the location, size, date, and method of abandonment, whether the facility has been abandoned properly under applicable law, and other relevant information the Secretary may require. Not later than April 24, 1994, the Secretary shall specify how the information shall be reported. The Secretary shall ensure that the Government maintains the information in a way accessible to appropriate Government agencies and State authorities.

(C) The Secretary shall request that a State authority having information on a collision between a vessel and an underwater pipeline facility report the information to the Secretary in a timely way and make a reasonable effort to specify the location, date, and severity of the collision. Chapter 35 of title 44 [44 U.S.C. 3501 et seq.] does not apply to this subparagraph.

(7) The Secretary may not exempt from this chapter [49 U.S.C. 60101 et seq.] an offshore hazardous liquid pipeline facility only because the pipeline facility transfers hazardous liquid in an underwater pipeline between a vessel and an onshore facility.

(d) REPLACING CAST IRON GAS PIPELINES.—

(1) The Secretary shall publish a notice on the availability of industry guidelines, developed by the Gas Piping Technology Committee, for replacing cast iron pipelines. Not later than 2 years after the guidelines become available, the Secretary shall conduct a survey of gas pipeline operators with cast iron pipe in their systems to establish—

(A) the extent to which each operator has adopted a plan for the safe management and replacement of cast iron;

(B) the elements of the plan, including the anticipated rate of replacement; and

(C) the progress that has been made.

(2) Chapter 35 of title 44 [44 U.S.C. 3501 et seq.] does not apply to the conduct of the survey.

(3) This subsection does not prevent the Secretary from developing Government guidelines or **[regulations]** *standards* for cast iron gas pipelines as the Secretary considers appropriate.

§ 60109. High-density population areas and environmentally sensitive areas

(a) IDENTIFICATION REQUIREMENTS.—Not later than October 24, 1994, the Secretary of Transportation shall prescribe **[regulations]** *standards* that—

(1) establish criteria for identifying—

(A) by operators of gas pipeline facilities, each gas pipeline facility (except a natural gas distribution line) located in a high-density population area; and

(B) by operators of hazardous liquid pipeline facilities and gathering lines—

(i) each hazardous liquid pipeline facility, whether otherwise subject to this chapter [49 U.S.C. 60101 et seq.], that crosses **[a navigable waterway (as the Secretary defines by regulation)]** *waters where a substantial likelihood of commercial navigation exists* or that is located in an area described in the criteria as a high-density population area; and

(ii) each hazardous liquid pipeline facility and gathering line, whether otherwise subject to this chapter [49 U.S.C. 60101 et seq.], located in an area that the Secretary, in consultation with the Administrator of the Environmental Protection Agency, describes as unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident; and

(2) provide that the identification be carried out through the inventory required under section 60102(e) of this title.

[(b) AREAS TO BE INCLUDED AS UNUSUALLY SENSITIVE.—When describing an area that is unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, the Secretary shall consider including—

[(1) earthquake zones and areas subject to landslides and other substantial ground movements;

[(2) areas of likely ground water contamination if a hazardous liquid pipeline facility ruptures;

[(3) freshwater lakes, rivers, and waterways; and

[(4) river deltas and other areas subject to soil erosion or subsidence from flooding or other water action where a hazardous liquid pipeline facility is likely to become exposed or undermined.]

(b) *AREAS TO BE INCLUDED AS UNUSUALLY SENSITIVE.*—When describing areas that are unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, the Secretary shall consider areas where a pipeline rupture would likely cause permanent or long-term environmental damage, including—

(1) *locations near pipeline rights-of-way that are critical to drinking water, including intake locations for community water systems and critical sole source aquifer protection areas; and*

(2) *locations near pipeline rights-of-way that have been identified as critical wetlands, riverine or estuarine systems, national parks, wilderness areas, wildlife preservation areas or refuges, wild and scenic rivers, or critical habitat areas for threatened and endangered species.*

§ 60110. Excess flow valves

(a) APPLICATION.—This section applies only to—

(1) a natural gas distribution system installed after the effective date of regulations prescribed under this section; and

(2) any other natural gas distribution system when repair to the system requires replacing a part to accommodate installing excess flow valves.

(b) INSTALLATION REQUIREMENTS AND CONSIDERATIONS.—Not later than April 24, 1994, the Secretary of Transportation shall prescribe [regulations] *standards* on the [circumstances] *circumstances, if any*, under which an operator of a natural gas distribution system must install excess flow valves in the system. The Secretary shall consider—

(1) the system design pressure;

(2) the system operating pressure;

(3) the types of customers to which the distribution system supplies gas, including hospitals, schools, and commercial enterprises;

(4) the technical feasibility and cost of [installing] *installing, operating, and maintaining* the valve;

(5) the public safety benefits of installing the valve;

(6) the location of customer meters; and

(7) other factors the Secretary considers relevant.

(c) NOTIFICATION OF AVAILABILITY.—

(1) Not later than October 24, 1994, the Secretary shall prescribe [regulations] *standards* requiring an operator of a natural gas distribution system to notify in writing its customers having lines in which excess flow valves are not required by law but can be installed according to the standards prescribed under subsection (e) of this section, of—

(A) the availability of excess flow valves for installation in the system;

(B) safety benefits to be derived from installation; and

(C) costs associated with [installation.] *installation, maintenance, and replacement.*

(2) The [regulations] *standards* shall provide that, except when installation is required under subsection (b) of this section, excess flow valves shall be installed at the request of the customer if the customer will pay all costs associated with installation.

(d) REPORT.—If the Secretary decides under subsection (b) of this section that there are no circumstances under which an operator must install excess flow valves, the Secretary shall submit to Congress a report on the reasons for the decision not later than 30 days after the decision is made.

(e) PERFORMANCE STANDARDS.—Not later than April 24, 1994, the Secretary shall develop standards for the performance of excess flow valves used to protect lines in a natural gas distribution system. *The Secretary may adopt industry accepted performance standards in order to comply with the requirement under the preceding sentence.* The standards shall be incorporated into regulations the Secretary prescribes under this section. All excess flow valves shall be installed according to the standards.

§ 60113. Customer-owned natural gas service lines

(a) [MAINTENANCE INFORMATION.—]Not later than October 24, 1993, the Secretary of Transportation shall prescribe [regulations] *standards* requiring an operator of a natural gas distribution pipeline that does not maintain customer-owned natural gas service lines up to building walls to advise its customers of—

- (1) the requirements for maintaining those lines;
- (2) any resources known to the operator that could assist customers in carrying out the maintenance;
- (3) information the operator has on operating and maintaining its lines that could assist customers; and
- (4) the potential hazards of not maintaining the lines.

[(b) ACTIONS TO PROMOTE SAFETY.—Not later than one year after submitting the report required under section 115(b) of the Pipeline Safety Act of 1992 (Public Law 102-508, 106 Stat. 3296), the Secretary, considering the report and in cooperation and coordination with appropriate State and local authorities, shall take appropriate action to promote the adoption of measures to improve the safety of customer-owned natural gas service lines.]

§ 60114. One-call notification systems

(a) MINIMUM REQUIREMENTS.—The Secretary of Transportation shall prescribe regulations providing minimum requirements for establishing and operating a one-call notification system for a State to adopt that will notify an operator of a pipeline facility of activity in the vicinity of the facility that could threaten the safety of the facility. The regulations shall include the following:

- (1) a requirement that the system apply to all areas of the State containing underground pipeline facilities.
- (2) a requirement that a person intending to engage in an activity the Secretary decides could cause physical damage to an underground facility must contact the appropriate system to establish if there are underground facilities present in the area of the intended activity.

(3) a requirement that all operators of underground pipeline facilities participate in an appropriate one-call notification system.

(4) qualifications for an operator of a facility, a private contractor, or a State or local authority to operate a system.

(5) procedures for advertisement and notice of the availability of a system.

(6) a requirement about the information to be provided by a person contacting the system under clause (2) of this subsection.

(7) a requirement for the response of the operator of the system and of the facility after they are contacted by an individual under this subsection.

(8) a requirement that each State decide whether the system will be toll free.

(9) a requirement for sanctions substantially the same as provided under sections [60120, 60122, and 60123] *60120 and 60122* of this title.

[(b) GRANTS.—The Secretary may make a grant to a State under this section to develop and establish a one-call notification system consistent with subsection (a) of this section.]

[(c)] (b) MARKING FACILITIES.—On notification by an operator of a damage prevention program or by a person planning to carry out demolition, excavation, tunneling, or construction in the vicinity of a pipeline facility, the operator of the facility shall mark accurately, in a reasonable and timely way, the location of the pipeline facilities in the vicinity of the demolition, excavation, tunneling, or construction.

[(d) APPORTIONMENT.—When apportioning the amount appropriated to carry out section 60107 of this title among the States, the Secretary—

[(1) shall consider whether a State has adopted or is seeking adoption of a one-call notification system under this section; and

[(2) shall withhold part of a payment under section 60107 of this title when the Secretary decides a State has not adopted, or is not seeking adoption of, a one-call notification system.]

[(e)] (c) RELATIONSHIP TO OTHER LAWS.—This section and regulations prescribed under this section do not affect the liability established under a law of the United States or a State for damage caused by an activity described in subsection (a)(2) of this section.

§ 60115. Technical safety standards committees

(a) ORGANIZATION.—The Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee are committees in the Department of Transportation. *The committees referred to in the preceding sentence shall serve as peer review committees for carrying out this chapter. Peer reviews conducted by the committees shall be treated for purposes of all Federal laws relating to risk assessment and peer review (including laws that take effect after the date of the enactment of the Accountable Pipeline Safety Partnership Act of 1996) as meeting any peer review requirements of such laws.*

(b) COMPOSITION AND APPOINTMENT.—

(1) The Technical Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary of Transportation after consulting with public and private agencies concerned with the technical aspect of transporting gas or operating a gas pipeline facility. Each member must be experienced in the safety regulation of transporting gas and of gas pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting gas or operating a gas pipeline facility, to evaluate gas pipeline safety standards *or risk management principles*.

(2) The Technical Hazardous Liquid Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary after consulting with public and private agencies concerned with the technical aspect of transporting hazardous liquid or operating a hazardous liquid pipeline facility. Each member must be experienced in the safety regulation of transporting hazardous liquid and of hazardous liquid pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting hazardous liquid or operating a hazardous liquid pipeline facility, to evaluate hazardous liquid pipeline safety standards *or risk management principles*.

(3) The members of each committee are appointed as follows:

(A) 5 individuals selected from departments, agencies, and instrumentalities of the United States Government and of the States.

(B) **[4]** 5 individuals selected from the natural gas or hazardous liquid industry, as appropriate, after consulting with industry representatives.

(C) **[6]** 5 individuals selected from the general public.

(4)(A) Two of the individuals selected for each committee under paragraph (3)(A) of this subsection must be State commissioners. The Secretary shall consult with the national organization of State commissions before selecting those 2 individuals.

(B) At least 3 of the individuals selected for each committee under paragraph (3)(B) of this subsection must be currently in the active operation of natural gas pipelines or hazardous liquid pipeline facilities, as appropriate. *At least 1 of the individuals selected for each committee under paragraph (3)(B) shall have education, background, or experience in risk assessment and cost-benefit analysis. The Secretary shall consult with the national organizations representing the owners and operators of pipeline facilities before selecting individuals under paragraph (3)(B).*

(C) Two of the individuals selected for each committee under paragraph (3)(C) of this subsection must have education, background, or experience in environmental protection or public safety. *At least 1 of the individuals selected for each committee under paragraph (3)(C) shall have education, background, or experience in risk assessment and cost-benefit analysis.* At least one individual selected for each committee under paragraph

(3)(C) may not have a financial interest in the pipeline, petroleum, or natural gas industries.

(c) COMMITTEE REPORTS ON PROPOSED STANDARDS.—

(1) The Secretary shall give to—

(A) the Technical Pipeline Safety Standards Committee each standard proposed under this chapter [49 U.S.C. 60101 et seq.] for transporting gas and for gas pipeline facilities *including the risk assessment information and other analyses supporting each proposed standard*; and

(B) the Technical Hazardous Liquid Pipeline Safety Standards Committee each standard proposed under this chapter [49 U.S.C. 60101 et seq.] for transporting hazardous liquid and for hazardous liquid pipeline facilities *including the risk assessment information and other analyses supporting each proposed standard*.

(2) Not later than 90 days after receiving the proposed standard *and supporting analyses*, the appropriate committee shall prepare *and submit to the Secretary* a report on the technical feasibility, reasonableness, *cost-effectiveness*, and practicability of the proposed standard *and include in the report recommended actions*. The Secretary shall publish each report, including *any recommended actions and minority views*. The report if timely made is part of the proceeding for prescribing the standard. The Secretary is not bound by the conclusions of the committee. However, if the Secretary rejects the conclusions of the committee, the Secretary shall publish the reasons.

(3) The Secretary may prescribe a standard after the end of the 90-day period.

(d) PROPOSED COMMITTEE STANDARDS AND POLICY DEVELOPMENT RECOMMENDATIONS.—

(1) The Technical Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting gas and for gas pipeline facilities. The Technical Hazardous Liquid Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting hazardous liquid and for hazardous liquid pipeline facilities.

(2) If requested by the Secretary, a committee shall make policy development recommendations to the Secretary.

(e) MEETINGS.—Each committee shall meet with the Secretary at least **[twice]** *up to 4 times* annually. Each committee proceeding shall be recorded. The record of the proceeding shall be available to the public.

(f) **[PAY AND]** EXPENSES.—**[The Secretary may establish the pay for each member of a committee for each day (including travel time) when performing duties of the committee. However, a member may not be paid more than the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of title 5.]** A member *of a committee under this section* is entitled to expenses under section 5703 of title 5. A payment under this subsection does not make a member an officer or employee of the Government. This subsection does not apply to members regularly employed by the Government.

§ 60116. Public education programs

Under regulations the Secretary of Transportation prescribes, each [person transporting gas] *owner or operator of a gas pipeline facility* shall carry out a program to educate the public on *the use of a one-call notification system prior to excavation*, the possible hazards associated with gas [leaks] *leaks*, and the importance of reporting gas odors and leaks to the appropriate authority. The Secretary may develop material suitable for use in the program.

§ 60117. Administrative

(a) GENERAL AUTHORITY.—To carry out this chapter [49 U.S.C. 60101 et seq.], the Secretary of Transportation may conduct investigations, make reports, issue subpoenas, conduct hearings, require the production of records, take depositions, and conduct research, testing, development, demonstration, and training activities *and promotional activities relating to prevention of damage to pipeline facilities*. The Secretary may not charge a tuition-type fee for training State or local government personnel in the enforcement of regulations prescribed under this chapter [49 U.S.C. 60101 et seq.].

(b) RECORDS, REPORTS, AND INFORMATION.—To enable the Secretary to decide whether a person [transporting gas or hazardous liquid] *owning or operating a pipeline facility* is complying with this chapter [49 U.S.C. 60101 et seq.] and standards prescribed or orders issued under this chapter [49 U.S.C. 60101 et seq.], the person shall—

(1) maintain records, make reports, and provide information the Secretary requires; and

(2) make the records, reports, and information available when the Secretary requests.

The Secretary may require owners and operators of gathering lines to provide the Secretary information pertinent to the Secretary's ability to make a determination as to whether and to what extent to regulate gathering lines.

(c) ENTRY AND INSPECTION.—An officer, employee, or agent of the Department of Transportation designated by the Secretary, on display of proper credentials to the individual in charge, may enter premises to inspect the records and property of a person at a reasonable time and in a reasonable way to decide whether a person is complying with this chapter [49 U.S.C. 60101 et seq.] and standards prescribed or orders issued under this chapter [49 U.S.C. 60101 et seq.].

(d) CONFIDENTIALITY OF INFORMATION.—Information related to a confidential matter referred to in section 1905 of title 18 [18 U.S.C. 1905] that is obtained by the Secretary or an officer, employee, or agent in carrying out this section may be disclosed only to another officer or employee concerned with carrying out this chapter [49 U.S.C. 60101 et seq.] or in a proceeding under this chapter [49 U.S.C. 60101 et seq.].

(e) USE OF ACCIDENT REPORTS.—

(1) Each accident report made by an officer, employee, or agent of the Department may be used in a judicial proceeding resulting from the accident. The officer, employee, or agent may be required to testify in the proceeding about the facts developed in investigating the accident. The report shall be made

available to the public in a way that does not identify an individual.

(2) Each report related to research and demonstration projects and related activities is public information.

(f) TESTING FACILITIES INVOLVED IN ACCIDENTS.—The Secretary may require testing of a part of a pipeline facility subject to this chapter [49 U.S.C. 60101 et seq.] that has been involved in or affected by an accident only after—

(1) notifying the appropriate State official in the State in which the facility is located; and

(2) attempting to negotiate a mutually acceptable plan for testing with the owner of the facility and, when the Secretary considers appropriate, the National Transportation Safety Board.

(g) PROVIDING SAFETY INFORMATION.—On request, the Secretary shall provide the Federal Energy Regulatory Commission or appropriate State authority with information the Secretary has on the safety of material, operations, devices, or processes related to pipeline transportation or operating a pipeline facility.

(h) COOPERATION.—The Secretary may—

(1) advise, assist, and cooperate with other departments, agencies, and instrumentalities of the United States Government, the States, and public and private agencies and persons in planning and developing safety standards and ways to inspect and test to decide whether those standards have been complied with;

(2) consult with and make recommendations to other departments, agencies, and instrumentalities of the Government, State and local governments, and public and private agencies and persons to develop and encourage activities, including the enactment of legislation, that will assist in carrying out this chapter [49 U.S.C. 60101 et seq.] and improve State and local pipeline safety programs; and

(3) participate in a proceeding involving safety requirements related to a liquefied natural gas facility before the Commission or a State authority.

(i) PROMOTING COORDINATION.—

(1) After consulting with appropriate State officials, the Secretary shall establish procedures to promote more effective coordination between departments, agencies, and instrumentalities of the Government and State authorities with regulatory authority over pipeline facilities about responses to a pipeline accident.

(2) In consultation with the Occupational Safety and Health Administration, the Secretary shall establish procedures to notify the Administration of any pipeline accident in which an excavator that has caused damage to a pipeline may have violated a regulation of the Administration.

(j) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

(k) AUTHORITY FOR COOPERATIVE AGREEMENTS.—*To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with any person, agency, or instru-*

mentality of the United States, any unit of State or local government, any educational institution, or any other entity to further the objectives of this chapter. The objectives of this chapter include the development, improvement, and promotion of one-call damage prevention programs, research, risk assessment, and mapping.

§ 60118. Compliance and waivers

(a) **GENERAL REQUIREMENTS.**—A person [transporting gas or hazardous liquid or] owning or operating a pipeline facility shall—

[(1) comply with applicable safety standards prescribed under this chapter [49 U.S.C. 60101 et seq.], except as provided in this section;]

(1) comply with applicable safety standards prescribed under this chapter, except as provided in this section or in section 60126;

(2) prepare and carry out a plan for inspection and maintenance required under section 60108(a) and (b) of this title; and

(3) allow access to or copying of records, make reports and provide information, and allow entry or inspection required under section 60117(a)–(d) of this title.

[(b) **COMPLIANCE ORDERS.**—The Secretary of Transportation may issue orders directing compliance with this chapter [49 U.S.C. 60101 et seq.] or a regulation prescribed under this chapter [49 U.S.C. 60101 et seq.]. An order shall state clearly the action a person must take to comply.]

*(b) **COMPLIANCE ORDERS.**—The Secretary of Transportation may issue orders directing compliance with this chapter, an order under section 60126, or a regulation prescribed under this chapter. An order shall state clearly the action a person must take to comply.*

(c) **WAIVERS BY SECRETARY.**—On application of a person [transporting gas or hazardous liquid] owning or operating a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter [49 U.S.C. 60101 et seq.] on terms the Secretary considers appropriate, if the waiver is not inconsistent with pipeline safety. The Secretary shall state the reasons for granting a waiver under this subsection. The Secretary may act on a waiver only after notice and an opportunity for a hearing.

(d) **WAIVERS BY STATE AUTHORITIES.**—If a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect, the State authority may waive compliance with a safety standard to which the certification or agreement applies in the same way and to the same extent the Secretary may waive compliance under subsection (c) of this section. However, the authority must give the Secretary written notice of the waiver at least 60 days before its effective date. If the Secretary makes a written objection before the effective date of the waiver, the waiver is stayed. After notifying the authority of the objection, the Secretary shall provide a prompt opportunity for a hearing. The Secretary shall make the final decision on granting the waiver.

§ 60123. Criminal penalties

(a) **GENERAL PENALTY.**—A person knowingly and willfully violating section [60114(c) or 60118(a)] *60114(c), 60118(a), or 60128* of

this title or a regulation prescribed or order issued under this chapter [49 U.S.C. 60101 et seq.] shall be fined under title 18, imprisoned for not more than 5 years, or both.

(b) **PENALTY FOR DAMAGING OR DESTROYING FACILITY.**—A person knowingly and willfully damaging or destroying, or attempting to damage or destroy, an interstate gas pipeline facility or interstate hazardous liquid pipeline facility shall be fined under title 18, imprisoned for not more than 15 years, or both.

(c) **PENALTY FOR DAMAGING OR DESTROYING SIGN.**—A person knowingly and willfully defacing, damaging, removing, or destroying a pipeline sign or right-of-way marker required by a law or regulation of the United States shall be fined under title 18, imprisoned for not more than one year, or both.

(d) **PENALTY FOR NOT USING ONE-CALL NOTIFICATION SYSTEM OR NOT HEEDING LOCATION INFORMATION OR MARKINGS.**—A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person knowingly and willfully—

(1) engages in an excavation activity—

(A) without first using an available one-call notification system to establish the location of underground facilities in the excavation area; or

(B) without paying attention to appropriate location information or markings the operator of a pipeline facility establishes; and

(2) subsequently damages—

(A) a pipeline facility that results in death, serious bodily harm, or actual damage to property of more than \$50,000; **[or]**

(B) *a pipeline facility that does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or*

[(B)] (C) a hazardous liquid pipeline facility that results in the release of more than 50 barrels of product.

§ 60124. [Annual] Biennial reports

(a) **SUBMISSION AND CONTENTS.**—**[The Secretary of Transportation shall submit to Congress not later than August 15 of each odd-numbered year a report on carrying out this chapter [49 U.S.C. 60101 et seq.] for the prior calendar year for gas and a report on carrying out this chapter [49 U.S.C. 60101 et seq.] for the prior calendar year for hazardous liquid.]** *Not later than August 15, 1997, and every 2 years thereafter, the Secretary of Transportation shall submit to Congress a report on carrying out this chapter for the 2 immediately preceding calendar years for gas and a report on carrying out this chapter for such period for hazardous liquid.* Each report shall include the following information about the prior year for gas or hazardous liquid, as appropriate:

(1) a thorough compilation of the leak repairs, accidents, and casualties and a statement of cause when investigated and established by the National Transportation Safety Board.

(2) a list of applicable pipeline safety standards prescribed under this chapter [49 U.S.C. 60101 et seq.] including identification of standards prescribed during the year.

(3) a summary of the reasons for each waiver granted under section 60118(c) and (d) of this title.

(4) an evaluation of the degree of compliance with applicable safety standards, including a list of enforcement actions and compromises of alleged violations by location and company name.

(5) a summary of outstanding problems in carrying out this chapter [49 U.S.C. 60101 et seq.], in order of priority.

(6) an analysis and evaluation of—

(A) research activities, including their policy implications, completed as a result of the United States Government and private sponsorship; and

(B) technological progress in safety achieved.

(7) a list, with a brief statement of the issues, of completed or pending judicial actions under this chapter [49 U.S.C. 60101 et seq.].

(8) the extent to which technical information was distributed to the scientific community and consumer-oriented information was made available to the public.

(9) a compilation of certifications filed under section 60105 of this title that were—

(A) in effect; or

(B) rejected in any part by the Secretary and a summary of the reasons for each rejection.

(10) a compilation of agreements made under section 60106 of this title that were—

(A) in effect; or

(B) ended in any part by the Secretary and a summary of the reasons for ending each agreement.

(11) a description of the number and qualifications of State pipeline safety inspectors in each State for which a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect and the number and qualifications of inspectors the Secretary recommends for that State.

(12) recommendations for legislation the Secretary considers necessary—

(A) to promote cooperation among the States in improving—

(i) gas pipeline safety; or

(ii) hazardous liquid pipeline safety programs; and

(B) to strengthen the national gas pipeline safety program.

(b) SUBMISSION OF ONE REPORT.—The Secretary may submit one report to carry out subsection (a) of this section.

§ 60125. Authorization of appropriations

[(a) GAS.—Not more than the following amounts may be appropriated to the Secretary of Transportation to carry out this chapter [49 U.S.C. 60101 et seq.] (except sections 60107 and 60114(b)) related to gas:

[(1) \$6,857,000 for the fiscal year ending September 30, 1993.

[(2) \$7,000,000 for the fiscal year ending September 30, 1994.

[(3) \$7,500,000 for the fiscal year ending September 30, 1995.]

(a) *GAS AND HAZARDOUS LIQUID.*—To carry out this chapter (except for sections 60107 and 60114(b)) related to gas and hazardous liquid, there are authorized to be appropriated to the Department of Transportation—

(1) \$19,448,000 for fiscal year 1996;

(2) \$20,028,000 for fiscal year 1997, of which \$14,600,000 is to be derived from user fees for fiscal year 1997 collected under section 60301 of this title;

(3) \$20,729,000 for fiscal year 1998, of which \$15,100,000 is to be derived from user fees for fiscal year 1998 collected under section 60301 of this title;

(4) \$21,442,000 for fiscal year 1999, of which \$15,700,000 is to be derived from user fees for fiscal year 1999 collected under section 60301 of this title”; and

(5) \$22,194,000 for fiscal year 2000, of which \$16,300,000 is to be derived from user fees for fiscal year 2000 collected under section 60301 of this title.

(b) *HAZARDOUS LIQUID.*—Not more than the following amounts may be appropriated to the Secretary to carry out this chapter [49 U.S.C. 60101 et seq.] (except sections 60107 and 60114(b)) related to hazardous liquid:

(1) \$1,728,500 for the fiscal year ending September 30, 1993.

(2) \$1,866,800 for the fiscal year ending September 30, 1994.

(3) \$2,000,000 for the fiscal year ending September 30, 1995.

(c) *STATE GRANTS.*—

(1) Not more than the following amounts may be appropriated to the Secretary to carry out section 60107 of this title:

(A) \$7,750,000 for the fiscal year ending September 30, 1993.

(B) \$9,000,000 for the fiscal year ending September 30, 1994.

(C) \$10,000,000 for the fiscal year ending September 30, 1995.

(D) \$12,000,000 for fiscal year 1996.

(E) \$14,000,000 for fiscal year 1997, of which \$12,500,000 is to be derived from user fees for fiscal year 1997 collected under section 60301 of this title.

(F) \$14,490,000 for fiscal year 1998, of which \$12,900,000 is to be derived from user fees for fiscal year 1998 collected under section 60301 of this title.

(G) \$15,000,000 for fiscal year 1999, of which \$13,300,000 is to be derived from user fees for fiscal year 1999 collected under section 60301 of this title.

(H) \$15,524,000 for fiscal year 2000, of which \$13,700,000 is to be derived from user fees for fiscal year 2000 collected under section 60301 of this title.

(2) At least 5 percent of amounts appropriated to carry out United States Government grants-in-aid programs for a fiscal year are available only to carry out section 60107 of this title related to hazardous liquid.

(3) Not more than 20 percent of a pipeline safety program grant under section 60107 of this title may be allocated to indirect expenses.

(d) GRANTS FOR ONE-CALL NOTIFICATION SYSTEMS.—Not more than \$——— may be appropriated to the Secretary for the fiscal year ending September 30, 19—, to carry out section 60114(b) of this title. Amounts under this subsection remain available until expended.

(e) CREDITING APPROPRIATIONS FOR EXPENDITURES FOR TRAINING.—The Secretary may credit to an appropriation authorized under subsection (a) or (b) of this section amounts received from sources other than the Government for reimbursement for expenses incurred by the Secretary in providing training.

(f) AVAILABILITY OF UNUSED AMOUNTS FOR GRANTS.—

(1) The Secretary shall make available for grants to States amounts appropriated for each of the fiscal years that ended September 30, 1986, and 1987, that have not been expended in making grants under section 60107 of this title.

(2) A grant under this subsection is available to a State that after December 31, 1987—

(A) undertakes a new responsibility under section 60105 of this title; or

(B) implements a one-call damage prevention program established under State law.

(3) This subsection does not authorize a State to receive more than 50 percent of its allowable pipeline safety costs from a grant under this chapter [49 U.S.C. 60101 et seq.].

(4) A State may receive not more than \$75,000 under this subsection.

(5) Amounts under this subsection remain available until expended.

§ 60126. Risk Management

(a) RISK MANAGEMENT PROGRAM DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Secretary shall establish risk management demonstration projects—

(A) to demonstrate, through the voluntary participation by owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities, the application of risk management; and

(B) to evaluate the application of risk management referred to in subparagraph (A).

(2) EXEMPTIONS.—In carrying out a demonstration project under this subsection, the Secretary, by order—

(A) may exempt an owner or operator of the pipeline facility covered under the project (referred to in this subsection as a “covered pipeline facility”), the applicability of all or a portion of the requirements under this chapter that would otherwise apply to the covered pipeline facility; and

(B) shall exempt, for the period of the project, an owner or operator of the covered pipeline facility, the applicability of any new standard that the Secretary promulgates under this chapter during the period of that participation, with respect to the covered facility.

(b) *REQUIREMENTS.*—In carrying out a demonstration project under this section, the Secretary shall—

(1) invite owners and operators of pipeline facilities to submit risk management plans for timely approval by the Secretary;

(2) require, as a condition of approval, that a risk management plan submitted under this subsection contain measures that are designed to achieve an equivalent or greater overall level of safety than would otherwise be achieved through compliance with the standards contained in this chapter or promulgated by the Secretary under this chapter;

(3) provide for—

(A) collaborative government and industry training;

(B) methods to measure the safety performance of risk management plans;

(C) the development and application of new technologies;

(D) the promotion of community awareness concerning how the overall level of safety will be maintained or enhanced by the demonstration project;

(E) the development of models that categorize the risks inherent to each covered pipeline facility, taking into consideration the location, volume, pressure, and material transported or stored by that pipeline facility;

(F) the application of risk assessment and risk management methodologies that are suitable to the inherent risks that are determined to exist through the use of models developed under subparagraph (E);

(G) the development of project elements that are necessary to ensure that—

(i) the owners and operators that participate in the demonstration project demonstrate that they are effectively managing the risks referred to in subparagraph (E); and

(ii) the risk management plans carried out under the demonstration project under this subsection can be audited;

(H) a process whereby an owner or operator of a pipeline facility is able to terminate a risk management plan or, with the approval of the Secretary, to amend, modify, or otherwise adjust a risk management plan referred to in paragraph (1) that has been approved by the Secretary pursuant to that paragraph to respond to—

(i) changed circumstances; or

(ii) a determination by the Secretary that the owner or operator is not achieving an overall level of safety that is at least equivalent to the level that would otherwise be achieved through compliance with the standards contained in this chapter or promulgated by the Secretary under this chapter; and

(I) such other elements as the Secretary, with the agreement of the owners and operators that participate in the demonstration project under this section, determines to further the purposes of this section; and

(4) in selecting participants for the demonstration project, take into consideration the past safety and regulatory perform-

ance of each applicant who submits a risk management plan pursuant to paragraph (1).

(c) *EMERGENCIES AND REVOCATIONS.*—Nothing in this section diminishes or modifies the Secretary's authority under this title to act in case of an emergency. The Secretary may revoke any exemption granted under this section for substantial noncompliance with the terms and conditions of an approved risk management plan.

(d) *PARTICIPATION BY STATE AUTHORITY.*—In carrying out this section, the Secretary may provide for consultation by a State that has in effect a certification under section 60105. To the extent that a demonstration project comprises an intrastate natural gas pipeline or an intrastate hazardous liquid pipeline facility, the Secretary may make an agreement with the State agency to carry out the duties of the Secretary for approval and administration of the project.

(e) *REPORT.*—Not later than March 31, 2000, the Secretary shall transmit to the Congress a report on the results of the demonstration projects carried out under this section that includes—

(1) an evaluation of each such demonstration project, including an evaluation of the performance of each participant in that project with respect to safety and environmental protection; and

(2) recommendations concerning whether the applications of risk management demonstrated under the demonstration project should be incorporated into the Federal pipeline safety program under this chapter on a permanent basis.

§ 60127. Population encroachment

(a) *LAND USE RECOMMENDATIONS.*—The Secretary of Transportation shall make available to an appropriate official of each State, as determined by the Secretary, the land use recommendations of the special report numbered 219 of the Transportation Research Board, entitled "Pipelines and Public Safety".

(b) *EVALUATION.*—The Secretary shall—

(1) evaluate the recommendations in the report referred to in subsection (a);

(2) determine to what extent the recommendations are being implemented;

(3) consider ways to improve the implementation of the recommendations; and

(4) consider other initiatives to further improve awareness of local planning and zoning entities regarding issues involved with population encroachment in proximity to the rights-of-way of any interstate gas pipeline facility or interstate hazardous liquid pipeline facility.

§ 60128. Dumping within pipeline rights-of-way

(a) *PROHIBITION.*—No person shall excavate for the purpose of unauthorized disposal within the right-of-way of an interstate gas pipeline facility or interstate hazardous liquid pipeline facility, or any other limited area in the vicinity of any such interstate pipeline facility established by the Secretary of Transportation, and dispose solid waste therein.

(b) *DEFINITION.*—For purposes of this section, the term “solid waste” has the meaning given that term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

